

# Realtors push for seller disclosure regulation

By Doug Funke  
staff writer

The Michigan Association of Realtors wants a state law or bureaucratically mandated regulation that would require sellers to disclose in writing all known defects of a house prior to a sale.

And the association wants that kind of measure to apply to all residential sales — those by owners as well as professional agents.

"It puts everything up front," said Carol Frick, president of the Birmingham-Bloomfield Board of Realtors.

"THE BENEFITS to the buyer are obvious," she said. "To the seller, they're less obvious. It allows them to put everything on the table. There's no question of coverage or trying to hide something."

"It's an effort to eliminate confu-

sion," said Stephen E. Pew, legislative chairman for the Michigan Association of Realtors and chairman of the board at Max Brook Inc. "I think the most important element for a buyer when looking at a piece of property is to know what's wrong with the property."

The exact content of the disclosure form remains to be worked out, said Al Rietberg, president of the state association and the owner of a real estate firm in Grand Rapids.

"IF YOU look and review the number of lawsuits relative to property condition, most were a lack of communication or surprises that came up after the fact," Rietberg said.

But not everyone thinks more legislation is the answer.

The argument goes that sellers and their agents must now respond to specific questions about known de-

fects during the negotiation process. Realtors say they're ethically bound to disclose all known defects. Buyers have recourse to buy with an inspection contingency.

SO, THE logic goes, why do we need a law to compel what already can be accomplished with a little common sense?

Because, supporters respond, the more information that can be brought to bear in a transaction, the better the opportunity for a problem-free outcome. And common sense isn't always so common.

Realtors concede that a disclosure requirement would help get them out of the middle when undisclosed defects materialize after a sale.

"IT WOULD reduce liability (for us) and hopefully for the seller as well," said Allen C. King, president of the Western Wayne Oakland Asso-

ciation of Realtors.

California and Maine are the only states that now require sellers to disclose known defects in writing.

"The basic thrust of it is the person most likely to know about past problems is the seller who has lived in the property," said Steven Sokol, associate general counsel for the California Association of Realtors.

"IT DOESN'T mean a seller has an obligation to find out things he doesn't know but impart to a buyer knowledge of material facts."

A disclosure statement is only part of the negotiation process, which should include a right to inspection and warranty coverage, Sokol said. "There are a lot of things that have to come together."

Sokol believes that lawsuits have declined in California since the law went into effect, although he had no specific numbers.

"IT'S NOT GOING to eliminate

lawsuits. We think it's going to lessen lawsuits on all parties," said Elizabeth Duncan, spokeswoman for the National Association of Realtors.

But some lawyers who practice real estate law said a disclosure measure isn't necessarily a panacea.

"Inevitably, what happens is you put a seller in an untenable position," said William W. Page, a lawyer with the Bloomfield firm of Vestevich, Maller, DuBois and Driscoll.

"Let's say a guy had a problem four years ago and he fixed it. Does he have to write a paragraph on it or can he say no problem? If a fellow is

deliberately trying to conceal something, there's a good possibility a disclosure form won't help," Page said.

FRED MALLENDER, a partner in the firm, has concerns about any form that's developed.

"If you don't ask the right questions, you don't get the right answers," he said. "My experience is the real problem is something no one had knowledge of, out-of-sight things."

Pew said he's optimistic that something will be ready to take effect next year. "It's part and parcel of the whole litigious society. I think it's an issue whose time has come."

## June sales top May's

June was another good month for area real estate agents who sold 5.3 percent more houses and condominiums in June than in May, according to Metro MLS, the multiple listing service covering western Wayne, Oakland and Livingston counties.

The June spurt of 1,491 houses and 155 condominium sales pushes the year's sales up 1.4 percent over the first six months of 1990 when 9,310 units were sold.

The median price for the first months of 1991 was \$84,000, a 5.1 percent increase from the \$79,900 reported at the same time last year.

"With mortgage interest rates holding near present levels, and the

current high availability of listings, we think the market will continue to grow in the latter half of the year," said Allen C. King, president of the Western Wayne Oakland County Association of Realtors.

Although he cited a growing consumer confidence in the economy, he said that many still overestimate the barriers to entering the housing market.

"I think some may be scared off by the high prices quoted in other areas of the country," King said. "Based on median household incomes and median home prices, homes in this metropolitan area remains among the most affordable in the nation's urban centers."

## Development requires financing, patience

I have some property that would be good for developing a site condominium. But I am not experienced and don't know the first thing about developing. How do I go about it?

It sounds as though you are talking about a site condominium where houses or cabins could be built in the vicinity. If the land is beautiful and rolling, you may have the perfect setting for a residential complex. You should contact an architect,

lawyer and site planner to help you formulate your ideas. You will obviously also have to get the appropriate zoning approval, financial commitments and legal documentation together. It is a long, taxing and sometimes frustrating experience. But, if successful, it can be beneficial economically as well as a worthwhile undertaking.

Can you tell me whether ownership alone creates liability as it re-

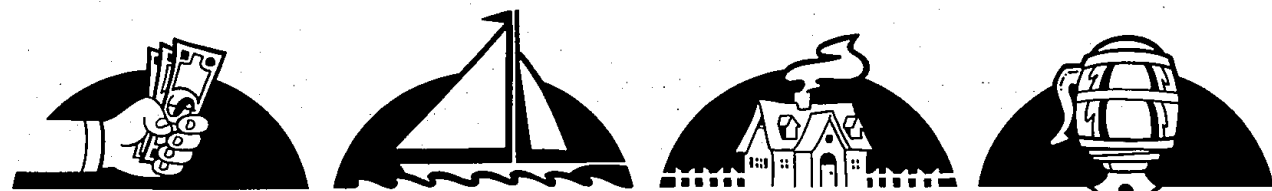


condo queries  
**Robert M. Melsner**

lates to an adjacent property owner concerning a condition or defect of the land or activity conducted on the land that causes damage to the adjacent landowner by a landlord who

has leased the premises to a tenant in possession?

I believe your scenario is under the legal principle of premises liability that indicates that the right to recover for a condition or defect of land or for an activity conducted on the land requires that the defendant have legal possession and control of the premises. The defendant's duty ends at the boundary of his premises unless he is undermining adjacent land.



EMPLOYMENT • RECREATIONAL • REAL ESTATE • PERSONALS

# WHATEVER YOUR NEEDS...

# CLASSIFIED HAS IT!

Readers recognize classified as the marketplace for merchandise; a showcase for services they seek. Individual entrepreneurs and businesses of all kinds rely on classified to reach the buyers they desire.

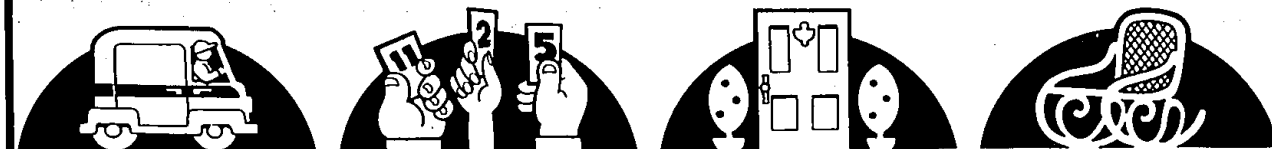
Classified...it's the reliable resource for the right results.

## Observer & Eccentric

### CLASSIFIED ADVERTISING

644-1070 Oakland County 591-0900 Wayne County 852-3222 Rochester/Rochester Hills

DEADLINE: 5 P.M. TUESDAY FOR THURSDAY EDITION / 5 P.M. FRIDAY FOR MONDAY EDITION



SERVICES • AUCTIONS • RENTALS • ANTIQUES